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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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June 4, 1992

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street NW  
Washington, D.C. 20554

Re: CC Docket No. 92-91

Dear Ms. Searcy:

On June 3, Larry Blosser, Andrew Regitsky and I met with Stan Wiggins and Steven Spaeth of the Tariff Division of the Common Carrier Bureau. MCI delivered copies of its Motion for Suspension of Procedural Dates, reviewed the status of this proceeding, and discussed the need for the relief requested in the motion.

Sincerely,

Leonard S. Sawicki

cc: Mr. Spaeth  
Mr. Wiggins

Attachment

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JUN - 4 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Open Network Architecture Tariffs ) CC Docket No. 92-91  
of Bell Operating Companies )  
 )

MOTION FOR SUSPENSION OF PROCEDURAL DATES

MCI Telecommunications Corporation (MCI), by its attorneys, hereby moves for suspension of procedural dates in the aforementioned tariff investigation. As will be demonstrated below, suspension of procedural dates, including the current June 17, 1992 deadline for the submission of comments on the Bell Operating Companies' (BOCs') direct case submissions, is necessary to avoid undue prejudice to the ability of MCI and other intervenors to participate fully in this important proceeding.

In the Designation Order, the Commission sought to expedite consideration of those "issues that do not depend upon the validity of the [BOCs' computer] models."<sup>1/</sup> The Commission observed that the validity of the BOCs' Switching Cost Information System (SCIS) and other computer models are being examined in camera by the Tariff Division staff and that "certain proprietary aspects of these computer models" have been referred to an independent auditor. Id. The Commission further noted that it has established procedures by which intervenors "may

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<sup>1/</sup> In the Matter of Open Network Architecture Tariffs of Bell Operating Companies, Order Designating Issues for Investigation, CC Docket No. 92-91, DA 92-483, released April 16, 1992 (Designation Order), at 2.

examine a redacted version of SCIS" and expressed its intention to "determine whether further proceedings should be conducted to examine the validity of the models at a later date." Id.

Finally, the Commission expressed its belief that the issues specified in the Designation Order "can be addressed in the public record without reliance upon confidential information." Id.

In the course of MCI's initial review of the BOC direct case submissions, it has become apparent that the Commission's effort to separate the issues in this investigation into "public record" issues and "proprietary cost model" issues has not been entirely successful. The majority of the BOC direct case submissions contain numerous references to proprietary cost models such as SCIS and various aspects thereof, including SCIS options and the effect that particular changes in SCIS inputs will have on SCIS outputs. Although it is possible that the BOCs are simply endeavoring to respond to the issues designated by the Commission, MCI is concerned that at least some of the BOCs' responses represent efforts to exploit the advantage they currently possess due to the unusual procedural posture of this case. Specifically, the BOCs may be attempting to place their version of the "facts" concerning the cost models on the record before MCI and other intervenors gain sufficient access to those models to have a meaningful opportunity to analyze and respond to the BOCs' claims.

Because MCI's analysis of the BOCs' direct cases is still in

its early stages, the scope of the BOCs' exploitation of their superior knowledge of the cost models remains unclear. For purposes of supporting this motion by illustrating the nature and scope of MCI's concerns, we submit the following examples.<sup>2/</sup>

(1) Marginal and Average Cost Versions of SCIS.

In response to Question 1 in the Designation Order (which asks whether the "marginal investment option" of SCIS results in the development of unit investment for basic service elements consistent with Commission requirements and policies), Southwestern Bell Telephone Company (SW Bell), describes SCIS marginal and average costing versions as follows:

The marginal investment version of SCIS produces direct incremental costs appropriate for a long run incremental cost study. The average investment version of SCIS produces allocated investment which is not economically meaningful in developing long run economic cost of a service. The marginal cost version of SCIS produces the direct economic investment associated with the service under study.

Direct Case of Southwestern Bell Telephone Company, at 1.

MCI's experience with SCIS in state regulatory proceedings suggests that SW Bell's description of the "marginal" and "average" versions of SCIS is inaccurate.<sup>3/</sup>

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<sup>2/</sup> The examples are not exhaustive. The BOCs' responses to other questions, including question 2 concerning model offices and accompanying costs, are related to SCIS decisions.

<sup>3/</sup> Specifically, MCI understands that both the "marginal" and "average" versions of SCIS are incremental cost studies, and that the "average investment version of SCIS" is not a fully-allocated study, as SWB appears to imply.

MCI has similar concerns with other BOCs' direct case submissions. For example, BellSouth, at pp. 8-11 of its Direct  
(continued...)

Ordinarily, if MCI were to express disagreement with SW Bell's characterization of SCIS in its comments on SW Bell's direct case, it would provide evidentiary support for its position. Such support might take the form of citations to appropriate portions of the SCIS manual and documentation. Alternatively, MCI might include as an appendix to its comments, the results of a SCIS "trial run" to illustrate its point.

However, due to the unusual procedural status of this case, neither option is open to MCI. The initial "redacted" version of SCIS furnished to MCI and other intervenors subject to non-disclosure agreements ("Redaction I") was so heavily redacted as to be utterly useless. At the urging of MCI and other intervenors, the Commission staff has directed the BOCs to prepare a less heavily redacted version of SCIS ("Redaction II"), and has informally advised MCI and other intervenors that they need not expend further time and effort analyzing "Redaction I." To date, the "Redaction II" materials have not been made available. Only if intervenors were given access to unredacted SCIS software and documentation would we be certain to be able to assess the accuracy of all BOC representations concerning the model. Of course, neither MCI nor any other intervenor is as yet

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<sup>3/</sup>(...continued)

Case, presents an extensive discussion of the differences between the "marginal" and "average" versions of SCIS, complete with purported simplified "example" trial runs of each. Because intervenors have not yet been given a meaningful opportunity to interact with the SCIS model, either directly or by submitting "queries" for the auditor, neither MCI nor any other intervenor is in a position to comment on whether BellSouth's "examples" are representative.

in a position to determine whether the Commission's expectation -- that "Redaction II" (combined with the "query" process) will serve as an adequate basis for analysis and comment upon the BOC direct cases -- will be realized. It is abundantly clear, however, that intervenors should not be required to submit comments on SW Bell's response to Question 1 -- or on any other BOC responses in the "public" phase of this investigation which relate to the functioning of the "proprietary" cost models -- until they have had a reasonable opportunity to review and analyze a fully functional version of those models.

(2) Effect of Changes in "Cost of Money".

One of the questions posed by the Commission in the Designation Order is whether the use of a cost of money exceeding 11.25 is reasonable. In response to this question, every LEC concedes that it used a rate greater than 11.25 percent. However, only two of the BOCs state what "cost of money" input they employed. The rest of them are either silent on this point, or refer to materials submitted in the "non-public" portion of the investigation. For example, NYNEX, at Appendix A, p. 3 of 8, note 1 states: "These cost of money SCIS inputs have not been disclosed on the public record. They have been provided to the Commission, in camera, and to Arthur Andersen & Co. and intervenors in the ONA access tariff proceedings subject to confidentiality agreements...."

MCI strenuously objects to these BOCs' efforts to hide their "cost of money" inputs in the "non-public" portion of the

investigation. As two of the BOCs implicitly recognize -- by disclosing their own "cost of money" inputs on the public record -- nothing in the Commission's SCIS Disclosure Order or the model confidentiality agreements suggests that BOC "cost of money" inputs may be appropriately withheld from public disclosure. All potential ONA customers and other interested parties -- not just those intervenors who have signed confidentiality agreements -- should have an opportunity to review and comment upon on the reasonableness of the BOCs' "cost of money" inputs used in development of ONA rates. At present, the only way that MCI -- or any other interested party seeking to make the most effective use of its limited resources by focusing its efforts on those BOCs whose "cost of money" inputs are most excessive -- can even identify those BOCs is to execute a confidentiality agreement with all of them, and then expend substantial further time and effort reviewing the lobotomized SCIS "Redaction I" models.

Some BOCs have sought to use the opportunity presented by the Commission's question concerning the reasonableness of using a "cost of money" input other than 11.25 percent to "paper the record" with irrelevant, unsupported and otherwise objectionable statements concerning the functioning of SCIS. For example, Bell Atlantic asserts that

The SCIS model uses the cost of money to calculate the present value of demand and of investment over the economic life of the switch. A change in this factor has an insignificant effect on the SCIS unit investment output. (footnote: For many of these calculations, the cost of money appears in both the numerator and denominator of the equation and, therefore, virtually cancel.)

Bell Atlantic's Direct Case, at 4. (Similar assertions are made by Pacific Bell in its Direct Case, at 3-4.) Even if true, Bell Atlantic's conclusory statements are not responsive to the Commission's question, which asked only whether a cost of money exceeding 11.25 percent is reasonable.<sup>4/</sup> All issues related to the validity of the BOCs' cost models, including the sensitivity of those models to changes in cost of money and other inputs, are currently part of the non-public portion of this investigation.

The BOCs, by virtue of their ownership and use of the proprietary cost models and the Commission's bifurcation of this investigation, possess far more information concerning SCIS than intervenors can hope to garner from the public record or from SCIS "Redaction I." If procedural dates are not suspended, MCI (and presumably other intervenors) will have no option but to object in a necessarily generalized and largely unsupported fashion to each of the BOCs' direct case submissions to the extent they include, inter alia: descriptions of proprietary cost models; cost model options and inputs; or the impact that the selection of a given option (or a change in the value of a particular input) would have on the output of the cost models.

By this motion, MCI seeks a suspension of procedural dates so that MCI and other intervenors who are parties to

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<sup>4/</sup> By discussing the cost of money issue (or any other issue) in this motion, MCI does not waive its right to present additional facts and arguments on the same issue at the appropriate stage of the Commission's investigation.



nondisclosure agreements will have an adequate opportunity to review the SCIS "Redaction II" materials before submitting comments on the BOC direct case submissions.<sup>2/</sup> Grant of this motion would thus facilitate the development of the fullest possible factual record in this important proceeding. Moreover, grant of this motion would not materially delay the conclusion of the Commission's investigation. Given the interrelationship of the issues, it is unlikely that the Commission will be able to rule on any of the issues until the entire record of the proceeding, including the "proprietary" SCIS portion, is complete. Indeed, by helping to bring contested issues into sharper focus at an earlier stage of the investigation, grant of this motion may well hasten the end of the proceeding.

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<sup>2/</sup> Because the "Redaction II" materials are not yet available, it is difficult for MCI to predict the length of time that will be required to complete the review of SCIS and finalize comments. For this reason, MCI is not herein seeking an extension of time for the submission of comments on BOC direct cases (e.g., until thirty days after the "Redaction II" materials are available). Rather, MCI recommends that the Commission suspend procedural dates and leave the deadline for comments on BOC direct cases subject to further Commission order. Once the "Redaction II" materials are available, the Commission should reexamine the situation, and establish an appropriate deadline. Depending upon the timing of other related proceedings, the Commission may continue to prescribe separate procedural dates for the "public" and "proprietary" phases of this investigation, or establish a unitary deadline for comments or oppositions to BOC direct cases in both phases.

WHEREFORE, MCI respectfully requests that the Commission issue an order suspending procedural dates, pending further order of the Commission.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:

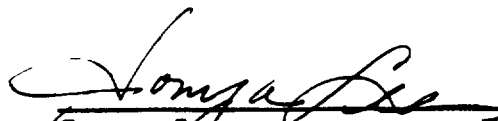
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Dated: June 3, 1992

CERTIFICATE OF SERVICE

I, Sonya Lee, do hereby certify that on this 3rd day of June 1992, copies of the foregoing "Motion for Suspension of Procedural Dates" in CC Docket No. 92-91 were served by telecopier and first-class mail, postage prepaid, unless otherwise indicated, upon the parties on the attached list.

  
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